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27 **UNITED STATES DISTRICT COURT**

28 **DISTRICT OF NEVADA**

29 CHRISTOPHER J. HADNAGY, an individual;
30 and SOCIAL-ENGINEER, LLC, a
31 Pennsylvania limited liability company,

32 Case No.: 2:23-cv-01345-CDS-BNW

33 Plaintiffs,

34 **DEFENDANTS' STATEMENT**
35 **REGARDING REMOVAL**

36 v.

37 JEFF MOSS, an individual; DEF CON
38 COMMUNICATIONS, INC., a Washington
39 corporation; and DOES 1-10; and ROE
40 ENTITIES 1-10, inclusive,

41 Defendants.

42 Defendants Jeff Moss and DEF CON Communications, Inc. ("DEF CON") (collectively,
43 "Defendants"), by and through their counsel of record, Holland & Hart LLP and Perkins Coie
44 LLP, file this statement regarding removal pursuant to the Court's August 31, 2023 Minute Order.

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1 *See* ECF No. 5. Defendants also refer this Court to the Notice of Removal and the exhibits
 2 attached thereto. *See* ECF No. 1.

3 **1. THE DATE ON WHICH YOU WERE SERVED WITH A COPY OF THE COMPLAINT.**

4 Plaintiff served Defendants with a copy of the Complaint on August 10, 2023. *See*
 5 **Exhibit A** (Affidavits of Service for Mr. Moss and DEF CON); *see also* ECF No. 1, at 4, ¶ 10.

6 **2. THE DATE ON WHICH YOU WERE SERVED WITH A COPY OF THE SUMMONS.**

7 Plaintiff served Defendants with a copy of the Summons on August 10, 2023. *See*
 8 Exhibit A; *see also* ECF No. 1, at 4, ¶ 10.

9 **3. IN REMOVALS BASED ON DIVERSITY JURISDICTION, THE NAMES OF ANY SERVED
 10 DEFENDANTS WHO ARE CITIZENS OF NEVADA, THE CITIZENSHIP OF THE OTHER
 11 PARTIES, AND A SUMMARY OF DEFENDANT'S EVIDENCE OF THE AMOUNT IN
 12 CONTROVERSY.**

13 Diversity jurisdiction is met under 28 U.S.C. § 1332. Plaintiff Christopher Hadnagy is a
 14 citizen of the State of Florida. *See* ECF No. 1-1, at 4 (Complaint, ¶ 14). Plaintiff Social-Engineer,
 15 LLC is a Pennsylvania limited liability company, having its principal place of business in the State
 16 of Pennsylvania. *See id.* (Complaint, ¶ 15). A limited liability company is deemed a citizen of
 17 every state of which its members are citizens. *See Johnson v. Columbia Properties Anchorage,*
 18 *LP*, 437 F.3d 894, 899 (9th Cir. 2006). Information regarding the citizenship of Plaintiff Social-
 19 Engineer, LLC's member(s) is not publicly available. Defendants accordingly state that on
 20 information and belief, none of Plaintiff Social-Engineer, LLC's member(s) is a citizen of
 21 Washington. *See Carolina Cas. Ins. Co. v. Team Equip., Inc.*, 741 F.3d 1082, 1087 (9th Cir. 2014)
 22 (concluding it was appropriate to simply allege "on the basis of information and belief" that an
 23 LLC's members are "diverse to" a defendant when the LLC's membership is not publicly
 24 available).

25 Defendant Jeff Moss is a citizen of the State of Washington. *See* ECF No. 1-1, at 4
 26 (Complaint, ¶ 16). Defendant DEF CON Communications, Inc. is a corporation organized under
 27 the laws of the State of Washington, having its principal place of business in the State of

1 Washington.¹ A corporation's citizenship includes the state of its principal place of business and
 2 the state of incorporation. *See Hertz Corp. v. Friend*, 559 U.S. 77, 94 (2010). Moreover, the
 3 citizenship of fictitious defendants is disregarded for purposes of establishing removal jurisdiction
 4 under 28 U.S.C. § 1332. *See* 28 U.S.C. § 1441(b)(1). Accordingly, Defendants are citizens of
 5 Washington.

6 The amount in controversy exceeds the jurisdictional threshold of \$75,000.00 based on
 7 the allegations in the Complaint. Plaintiffs here seek to recover "actual, consequential, and
 8 incidental damages against Defendants in excess of \$15,000 for each of the above-mentioned
 9 causes of action." *See* ECF No. 1-1, at 29 (Complaint, Prayer for Relief). This amount is exclusive
 10 of the punitive damages, interest, attorney's fees, and costs that are also sought by Plaintiffs. *See*
 11 *id.* Because Plaintiffs assert a total of seven causes of action and seek "in excess of \$15,000 for
 12 each," the Complaint's minimum damages demand totals \$105,000. *See id.* Thus, the amount in
 13 controversy exceeds the \$75,000 threshold established by 28 U.S.C. § 1332(a).

14 **4. IF YOUR NOTICE OF REMOVAL WAS FILED MORE THAN 30 DAYS AFTER YOU FIRST
 15 RECEIVED A COPY OF THE SUMMONS AND COMPLAINT, THE REASON REMOVAL HAS
 16 TAKEN PLACE AT THIS TIME AND THE DATE YOU FIRST RECEIVED A PAPER
 17 IDENTIFYING THE BASIS FOR REMOVAL.**

18 Not applicable. On August 10, 2023, Plaintiffs served Defendants with their Summons
 19 and Complaint. *See* ECF No. 1, at 4; *see also* Exhibit A. On August 29, 2023, Defendants filed the
 20 Notice of Removal, which is within thirty (30) days of service of the Summons and Complaint.
 21 *See* ECF No. 1.

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25 ¹ While Plaintiff's Complaint correctly recognizes that DEF CON is organized under the laws of
 26 the State of Washington, Plaintiff incorrectly states that DEF CON is a limited liability company,
 27 even though the caption of Plaintiff's Complaint lists DEF CON as a "Washington corporation."
 28 *Compare* ECF No. 1-1, at 2, *with* ECF No. 1-1, at 4, ¶ 17. DEF CON is a corporation organized
 under the laws of the State of Washington. *See Exhibit B* (Washington Secretary of State Business
 Information for DEF CON Communications, Inc.).

5. IN ACTIONS REMOVED ON THE BASIS OF THE COURT'S JURISDICTION IN WHICH THE STATE COURT ACTION WAS COMMENCED MORE THAN ONE YEAR BEFORE THE DATE OF REMOVAL, THE REASONS THIS ACTION SHOULD NOT SUMMARILY BE REMANDED TO THE STATE COURT.

Not applicable. On August 9, 2023, Plaintiffs filed their Complaint in state court. *See ECF No 1-1, at 2.* On August 10, 2023, Plaintiffs served Defendants with the Summons and Complaint. *See ECF No. 1, at 4; see also Exhibit A.* On August 29, 2023, Defendants filed their Notice of Removal. *See ECF No. 1.* Thus, less than one year passed before the date of removal.

6. THE NAME OF ANY DEFENDANT KNOWN TO HAVE BEEN SERVED BEFORE YOU FILED THE NOTICE OF REMOVAL WHO DID NOT FORMALLY JOIN IN THE NOTICE OF REMOVAL AND THE REASONS THEY DID NOT.

Defendants are not aware of any defendant who has been served before their filing of their Notice of Removal on August 29, 2023.

DATED this 15th day of September 2023.

HOLLAND & HART LLP

/s/ Robert J. Cassity

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*Attorneys for Defendants
Jeff Moss and DEE CON*

Jeff Moss and DEF CON Communications, Inc.

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INDEX OF EXHIBITS

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of September, 2023, a true and correct copy of the foregoing **DEFENDANTS' STATEMENT REGARDING REMOVAL** was served by the following method(s):

Electronic: by submitting electronically for filing and/or service with the United States District Court, District of Nevada's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

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*Attorneys for Plaintiff
Christopher J. Hadnagy
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/s/ Kristina R. Cole
An Employee of Holland & Hart LLP

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